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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE 949th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 August 1992, at 3 p.m.

Chairman: Mrs. SADIQ ALI

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a copy of the record. They should be sent within one week of the date of this
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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Review of implementation of the Convention in States parties whose reports
are overdue

Second, third and fourth periodic reports of Somalia (CERD/C/88/Add.6)

1. Mr. BANTON read out a proposed text on Somalia drafted in consultation
with other members of the Committee:

"1. The Committee took note of the request by the Mission of Somalia to
the United Nations Office at Geneva to defer consideration of the report
of Somalia until the situation in that country had clarified.

2. After hearing from its country rapporteur about the situation in
that country, and debating the issue, the Committee decided to defer for
one year its consideration of the implementation of the Convention in
Somalia.

3. The Committee expressed its concern about the tragic circumstances
prevailing in Somalia, which include conflicts based on descent, as
described in the reports of the Security Council and the
Secretary-General.

4. The Committee trusts that other competent organs of the
United Nations, and particularly the Security Council, would do
everything possible to bring to an end the violation of human rights
in Somalia."

2. He thought that the text, with the possible exception of the phrase
"which include conflicts based on descent" in paragraph 3, could be adopted
by consensus.

3. Mr. WOLFRUM said he did not have sufficient information on the situation
to enable him to accept the inclusion of the phrase "based on descent".

4. Mr. de GOUTTES said that he was in favour of the inclusion of those
words, which established a clearer link with the Committee's terms of
reference.

5. After consulting Mr. Aboul-Nasr, Mr. BANTON read out paragraphs 3 and 4
of the text, as slightly amended, to read:

"3. Taking account of the report of the Secretary-General to the
Security Council (S/24343), the Committee expressed its concern about the
tragic circumstances prevailing in Somalia, which include conflicts based
on descent.

4. The Committee trusts that the Security Council and other competent organs of the United Nations, in cooperation with regional and non-governmental organizations, will continue to do everything possible to bring to an end the violation of human rights in Somalia."

6. The text on Somalia, as revised, was adopted by consensus.

7. Mr. ABOUL-NASR said it was very important to refer to the efforts of regional and non-governmental organizations, and he wished to pay special tribute to the Red Cross in that regard.

Sixth periodic report of Lesotho (CERD/C/90/Add.2)

8. Mr. AHMADU, country rapporteur, briefly summarized the principal features of Lesotho and recapitulated the country's situation with regard to its obligation to submit reports to the Committee. While showing understanding of the troubled political situation in Lesotho, the Committee should express its regret that the country had not complied with its reporting obligations, and should remind it that the United Nations could provide States with technical assistance in that connection.

9. In view of the development of events in southern Africa and of the political changes that had occurred in Lesotho itself, it would be particularly desirable that the Committee be informed of the current situation. Lesotho should be requested to study the new reporting guidelines, and to indicate the laws, regulations and practices by which it implemented the provisions of the Convention. It would be useful if the next report of Lesotho were to contain information on the human rights aspects of the draft Constitution which had been approved by the country in 1991. It would also be helpful to know whether any legislation contrary to the provisions of the Convention had been amended or repealed.

10. Since there were no further comments, the CHAIRMAN suggested that Mr. Ahmadu should draft the Committee's concluding observations on the case of Lesotho.

11. Mr. ABOUL-NASR said he thought it would be better to entrust the drafting of the concluding observations to the Rapporteur, with a view to ensuring a certain degree of harmonization among the various countries.

12. The CHAIRMAN suggested that Mr. Ahmadu should prepare some draft concluding observations on Lesotho and transmit them to Mr. Banton.

13. Mr. van BOVEN said he agreed that the Committee should endeavour to bring its concluding observations more into line with one another and suggested that it might base itself initially on the relevant criteria defined by the Committee on Economic, Social and Cultural Rights, pending the establishment of its own criteria.

14. Mr. WOLFRUM said he would prefer the Human Rights Committee approach. The Committee should take up the matter at the beginning of its next session.

15. Mr. BANTON said he was prepared to go through the various draft concluding observations after the current session and study any discrepancies they might contain, with a view to making suggestions at the Committee's next session as to how those observations might be harmonized. It should be noted, however, that the Committee unfortunately had much less time to devote to the topic than the other bodies that had been mentioned.

16. Mr. SONG Shuhua said that that was an interesting suggestion. Since situations varied greatly from one country to another, it might perhaps be useful to establish a general framework that would nevertheless be flexible enough to enable the differences to be brought out.

17. Mr. DIACONU said he would like to raise the question of sources of information. It was not for the Committee to establish what human rights violations had occurred in one country or another. It was not competent to do so, nor did it have any means of confirming its assertions. It should therefore base itself primarily on United Nations reports and, whenever it made use of other sources of information, it should cite those sources.

18. Mr. de GOUTTES said that Mr. Banton was already, to some extent, harmonizing the concluding observations by suggesting certain changes to the drafts put forward by the various country rapporteurs. As far as sources of information were concerned, the Committee should indeed make primary use of United Nations sources; however, as an independent organ, it should not exclude other sources, although it must identify them as far as possible. In that connection, he reminded the Committee of the recommendation on the subject it had adopted in 1991.

19. Mr. FERRERO COSTA urged the Committee to keep to the agenda item under discussion. While the topics raised were extremely interesting, they had already been discussed, and although the Committee might return to them at a later stage, it did not have time to dwell on them for the moment. The Rapporteur could be relied on to bring the draft concluding observations into line as far as possible.

20. Mr. SHAHI said that it was the substance and not the form that was important. The Committee's chief task was to reach agreement on its conclusions; the rest could be left to the Rapporteur.

21. Mr. DIACONU said he was not disputing the fact that members of the Committee should have access to all available information. The problem was how to deal with such information in their conclusions, since it could not be presented as the Committee's own findings.

22. Mr. LAMPTEY said he failed to understand the reasons for the discussion in progress. The purpose of the concluding observations was to present the general view of the Committee. Those observations could well be harmonized, but there was no need at all to indicate the sources of information used. If the concluding observations were too detailed, there was a danger that no consensus could ever be reached.

23. Mr. WOLFRUM, on a point of order, requested that the meeting return to the item under consideration.

24. Mr. ABOUL-NASR said that the way the Committee's concluding observations were formulated was a matter of great importance. If necessary, the Committee should return to it after the item under consideration.

25. Mr. BANTON said that, in his view, it would be better if each country rapporteur were to circulate his own draft concluding observations, and if the members of the Committee then indicated any objections they might have. The rapporteur in question could then take them into account with a view to arriving at a consensus.

26. Mr. ABOUL-NASR said that it would be difficult for members of the Committee to submit all their objections to the country rapporteur so that he could take due account of them in his concluding observations. For instance, he himself was unable to accept most of the concluding observations submitted with regard to the report of Bangladesh.

27. The CHAIRMAN recalled that a point of order had been raised, and she was therefore obliged to decide upon it in accordance with rule 38 of the Committee's rules of procedure. She suggested that, as Mr. Wolfrum had proposed, the Committee should return to the item under consideration, and that the matter of the formulation of the Committee's concluding observations be taken up, if necessary, at a later stage.

28. It was so decided.

Second periodic report of Cape Verde (CERD/86/Add.4)

29. Mr. LAMPTEY, country rapporteur, reminded the Committee that it had taken the view that the initial report of Cape Verde (CERD/C/61/Add.5) did not altogether come up to expectations. The second report had been submitted in 1983, but there again the Committee had noted a number of shortcomings, and had asked for further information on the enjoyment of the rights provided for under articles 3 and 5 of the Convention, as well as for details of any cases of racial discrimination that had been brought before the courts and on the action taken by the Government in connection with article 7.

30. Cape Verde was a peace-loving State, which was of interest both on account of its racial mix and its democratic experience. That made it all the more desirable that it should share that experience with the international community, notably by submitting the reports required of it under the Convention.

31. The CHAIRMAN noted that the members of the Committee had no questions to ask with regard to the situation of Cape Verde.

32. Mr. LAMPTEY, country rapporteur, submitted the following concluding observations:

"In the absence of the due reports from Cape Verde, the Committee decided to review the situation in that country on the basis of the second periodic report submitted in 1983. The Committee took the view that Cape Verde had not responded to questions and comments of Committee

members raised during consideration of both the initial and second reports. It was regretted that Cape Verde, with its democratic traditions, had failed to fulfil its reporting obligations under the Convention. It was the hope of the Committee that Cape Verde would submit the due report as soon as possible and, in so doing, would take into account the consideration given to the matter by the Committee and would follow the guidelines on reporting that the Committee had adopted."

33. Mr. BANTON said he would like the first paragraph of his proposed text regarding countries whose reports were overdue, in which reference was made specifically to technical assistance by the Centre for Human Rights, to be added to the text just read out by Mr. Lamptey.

34. Mr. LAMPTEY, country rapporteur, said he was not sure whether Cape Verde needed technical assistance, since it had never asked for any. However, he had no objections to the insertion of the proposed paragraph.

35. Mr. AHMADU said that most of the African countries whose reports were overdue were in a situation characterized by constitutional changes. That was, for instance, the case in Liberia and in Burkina Faso. It might well be that the new authorities were not even aware of the fact that their predecessors had failed to submit a report on time. The Committee should show understanding in that regard.

36. The CHAIRMAN said that, if she heard no objections, she would take it that the Committee wished to adopt Mr. Lamptey's draft concluding observations, as supplemented by Mr. Banton, and that consideration of the situation in Cape Verde was thus completed.

37. It was so decided.

Initial report of St. Vincent and the Grenadines (CERD/C/85/Add.1)

38. Mr. BANTON, country rapporteur, said that St. Vincent and the Grenadines was a country situated in the Caribbean which had a territory of less than 390 square kilometres, and was thus only slightly larger than the canton of Geneva. In 1980, its population had been 97,845, 82 per cent of whom had been black and 14 per cent of mixed race, with small white, Asian and Amerindian minorities. In fact, those distinctions were often blurred. Thus, among the Amerindians, some counted themselves as Caribs, while others were regarded as black Caribs or yellow Caribs. The terms Island Caribs and Red Caribs were also used. Afro-Americans and Caribs looked down on one another, as did Caribs and "poor whites". The relations between East Indians and Caribs were more harmonious. Ethnic tensions were greater when they coincided with opposing political views.

39. The initial report, submitted in 1983, asserted that there was no discrimination in the country, and that citizens were protected from it by the basic clauses of the Constitution. The Committee had then drawn the State party's attention to the technical assistance that could be provided by the United Nations. St. Vincent and the Grenadines should thus be asked, at very least, to furnish the text of the clauses of the Constitution referred to. It should also be asked to specify what would happen in the event of a

racial conflict between a visitor and a citizen. The State party should also be reminded that racial discrimination was not practised solely by whites against blacks, and that members of any population group might become its victims. Persons of Asian descent in the country were largely concentrated in the lower strata of the population, and Caribs believed that blacks sometimes had a discriminatory attitude towards them. St. Vincent and the Grenadines should reflect further on its obligations under the Convention.

40. The CHAIRMAN, noting that the members of the Committee had no questions to put, said that, if she heard no objections, she would take it that the Committee wished to adopt Mr. Banton's draft concluding observations, and that consideration of the situation of St. Vincent and the Grenadines was thus completed.

41. It was so decided.

Second periodic report of El Salvador (CERD/C/86/Add.3)

42. Mr. WOLFRUM, country rapporteur, recalled that, in its second periodic report, El Salvador had devoted paragraphs 5 to 16 (out of a total of 25) to the question of apartheid, stating that it recognized the Namibian people and its representative, the South West Africa People's Organization (SWAPO), and that it had no direct economic relations with South Africa. The report further stated that El Salvador had adopted legislative measures to combat all forms of racial discrimination, and referred to article 150 of the Constitution, guaranteeing the equality of all persons before the law, as well as to article 191, recognizing the right of association and the right of workers to organize "without distinction as to nationality, race, creed or political ideas". The report also stated that those constitutional guarantees were reflected in the criminal law and in the Code of Penal Procedure. Lastly, it indicated that the international instruments to which El Salvador was a party were incorporated, once ratified, into domestic law.

43. Members of the Committee had criticized the report on several counts. Mr. Partsch had pointed out that the report did not mention how article 2 of the Convention was implemented, and did not refer to article 6. He had also regretted that no mention had been made of El Salvador's ethnic minorities. Mr. Oberg had regretted that the report limited itself to references to the Constitution. Mrs. Sadiq Ali had called for further information on the demographic composition of the population, and on measures adopted to improve the situation of minority groups which might justifiably consider themselves disadvantaged. Mr. Cicanovic had regretted the lack of information on implementation of article 5 of the Convention. Lastly, Mr. Shahi had deplored the fact that no detailed description was given of the measures to combat racial discrimination referred to in paragraphs 8 and 17 of the report.

44. According to the report by the Special Rapporteur of the Commission on Human Rights (E/CN.4/1991/34), summary executions, abductions and disappearances had continued to occur in El Salvador during 1990. An Agreement on Human Rights had been signed between the Government and FMLN at San José, Costa Rica, on 26 July 1990, which essentially confirmed the rights set out in the instruments of the United Nations and of the Organization of

American States to which El Salvador was a party and in the country's Constitution. It was interesting to note that the preamble to the Agreement stated that FMLN had the capacity and the will to guarantee respect for the inherent attributes of the human person. Both parties undertook to respect the most elementary rights of the individual. A very significant feature of the Agreement was the establishment of an international verification procedure under the auspices of the United Nations mission, whose director was to be designated by the Secretary-General. In accordance with that Agreement, the armed forces had established various procedures governing arrests and the rights of detainees; under those procedures, an individual could be arrested without a warrant only in flagrante delicto. In July 1990, the armed forces general staff had established an office to handle complaints of human rights violations.

45. Since the signing of the Agreement, human rights violations had been fewer in number, but had not ceased. In 1990, 63 people had been executed by death squads and 42 by the army, while 15 peasants had been murdered in the El Zapote district during the night of 21 to 22 January 1991. In addition, the military authorities were creating obstacles to the repatriation of Salvadorian refugees, especially from Honduras.

46. In conclusion, he pointed out that the Salvadorian judicial system seemed to lack either the will or the means to bring an end to such grave and persistent human rights violations. Little progress had been made in important investigations, such as that concerning the Jesuits murdered on 16 November 1989. It was to be hoped that the peace agreement of 25 September 1991 would bring about an improvement in the situation.

47. Mr. TIKHONOV (Secretary of the Committee) read out a note verbale from the Permanent Mission of El Salvador in Geneva, in which the Permanent Representative of El Salvador stated that it had unfortunately not been possible to present his country's report on schedule, but that it would be submitted in a month's time, and requested the Committee to be kind enough to consider it at its next session.

48. Mr. YUTZIS proposed that, in the light of the note verbale, consideration of the situation in El Salvador should be postponed.

49. Mr. WOLFRUM, country rapporteur, said he agreed with that proposal, but asked the Committee to take note of the statement he had made.

50. Mr. FERRERO COSTA said that, while he too agreed that El Salvador's request should be granted, the Committee should ask that country to submit a comprehensive report, containing up-to-date information.

51. The CHAIRMAN suggested that, with due regard for the statement by Mr. Wolfrum and the comments that had just been made, the Committee should defer consideration of the situation in El Salvador, as requested by the Permanent Representative of that country.

52. It was so decided.

53. Mr. de GOUTTES recalled that the Committee had found itself in a similar situation in the case of Viet Nam. It was true that the Government of Viet Nam had sent a delegation but it, too, had requested a last-minute postponement. The members of the Committee had agreed to await the next written report of Viet Nam, while proceeding to a preliminary exchange of views and asking a number of questions to which Viet Nam could reply when submitting that report.

54. As for El Salvador, a country which had experienced civil war and its accompanying violence, the situation showed some encouraging signs which could well be decisive for the future. It was thus essential that the Salvadorian Government should furnish information on the cease-fire agreement concluded on 31 December 1991, on the constitutional and legal reforms adopted by the Legislative Assembly in 1991, including the appointment of a procurator for human rights, on the reforms adopted in the army and the police force, on the activities of the fact-finding commission set up to investigate the very serious acts of violence committed by the Government towards FMLN, and lastly on the report of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL), set up in 1991.

55. The CHAIRMAN pointed out that the case of Viet Nam was different in that the Vietnamese delegation had invited the members of the Committee to ask questions. As for El Salvador, the Committee had just decided to defer consideration of the situation in that country.

56. Mr. YUTZIS asked whether Mr. de Gouttes' questions would be transmitted to the Salvadorian Government.

57. Mr. FERRERO COSTA suggested that the Salvadorian Government should be told that the Committee had agreed to defer consideration of the situation in its country, and that the summary record of the meeting at which the Committee had begun to deal with the matter should be forwarded to it, so that it could reply in its next report to the questions asked.

58. The CHAIRMAN said that the summary record of the meeting would be sent to the Salvadorian Government.

59. Mr. ABOUL-NASR said he thought that the summary records of meetings should be sent to all countries that requested them.

60. Mr. GARVALOV said that it was undoubtedly the last time that he would reluctantly agree to such a postponement of consideration of the situation in a country.

Initial report of Papua New Guinea (CERD/C/101/Add.4)

61. Mr. WOLFRUM, country rapporteur, said that the initial report of Papua New Guinea, submitted in 1983, had been very comprehensive, and prepared in accordance with the Committee's guidelines. It was unclear why the Government of that country had not continued to fulfil its international obligations in the matter.

62. Part I of the initial report stated that Papua New Guinea was a multiracial and non-discriminatory society and, in introducing the document, the country's representative had informed the Committee that there were 3 million inhabitants in Papua New Guinea speaking more than 750 languages and dialects, many of which were mutually incomprehensible. In its report, the Government had laid great emphasis on the country's Constitution and legal system. Articles 32 to 58 of the Constitution enshrined the basic principles of the Convention, and guaranteed the other fundamental human rights. Article 217 established an Ombudsman Commission whose task was to investigate complaints of discrimination lodged by individuals against public authorities or private companies. If it was found that the rights of an individual had not been respected, the Commission could help to bring the case before a court for remedial action. Article 55, paragraph 2, of the Constitution provided for the development and protection of certain racial groups or individuals, but no specific measure to that effect had been adopted at the time of the submission of the report. Likewise, the Government of Papua New Guinea had not adopted any specific legislative measures to stop the sponsoring, defending or supporting of racial discrimination by any persons or organizations within the country, because it was not aware of the occurrence of such practices within the country. Moreover, it had entered a reservation with regard to article 4 of the Convention, which it interpreted as requiring a party to the Convention to adopt further legislative measures in the areas covered by subparagraphs (a), (b) and (c) of the article only to the extent that it considered that some legislative addition to or variation of existing law and practice was necessary to give effect to the provisions of article 4.

63. Both the Constitution and the Discriminatory Practices Act prohibited any form of racial discrimination. Acts of discrimination were regarded as offences, whose perpetrators would be liable to prosecution.

64. The members of the Committee had deemed the report satisfactory, but had pointed out that the purpose of the Convention was not only to eliminate racial discrimination, but also to prevent its emergence. Some members had asked for information on the demographic composition of the country, and whether Papua New Guinea might not withdraw the reservation it had entered regarding article 4 of the Convention.

65. The Constitution of Papua New Guinea did not seem to have changed significantly since the last report was submitted, but the current human rights situation gave reason for concern. On Bougainville, government forces faced opposition from the Bougainville Revolutionary Army (BRA), which was seeking additional compensation for land occupied by the mining company Bougainville Copper Ltd. and for the damage to the environment. In 1989, the BRA had begun to fight for the independence of Bougainville and had committed acts of violence, notably against civilians suspected of informing the Government about its activities. The security forces had retaliated in kind against BRA sympathizers. On 17 May 1990, the leader of the BRA had declared the independence of Bougainville and the Revolutionary Army had appeared to be in control of the island. On 5 August 1990, however, the BRA and the Government had concluded an agreement.

66. He proposed that the Committee should recommend to the Government of Papua New Guinea that it resume its dialogue with the Committee, give an account of the legal situation in the country, and provide information on any negative repercussions that mining activities might have on the populations living in certain regions.

67. Mr. van BOVEN recalled that, in the course of its consideration of the situation in the former Yugoslavia, the Committee had given some thought to the role it might play with regard to prevention. In the face of a situation as explosive as that existing on Bougainville, he wondered whether the Committee should not request the Government of Papua New Guinea, under article 9, paragraph 1, of the Convention, to submit a report on the situation on Bougainville.

68. Mr. ABOUL-NASR supported that suggestion.

69. The CHAIRMAN said that, if she heard no objections, she would take it that the Committee wished to send a letter to the Government of Papua New Guinea requesting it, under article 9, paragraph 1, of the Convention, to send it information with regard to the situation on Bougainville.

70. It was so decided.

Initial report of the Solomon Islands (CERD/C/101/Add.1)

71. Mr. LECHUGA HEVIA, country rapporteur, said that the Government of the Solomon Islands had not submitted a report for nine years, and had not replied to the questions asked during the consideration of its initial report (CERD/C/101/Add.1), in which it had basically confined itself to paraphrasing the country's Constitution. As a result, it was difficult to assess the extent to which the Convention was being implemented in that country.

72. He reminded the Committee that, in its initial report, the Government had asserted that it had no reason to give effect to articles 2 to 7 of the Convention because the Constitution provided sufficient guarantees of the enjoyment of individual rights and freedoms. Accordingly, the Convention could have only a complementary role *vis-à-vis* the Constitution. In reply to those assertions, the Committee had reminded the Government of the Solomon Islands that international law had priority over national legislation, and that a State which had freely ratified an international instrument had a duty to honour the obligations it had thus assumed.

73. According to the report, the question of protection against racial discrimination was covered by chapter II, article 15, of the Constitution, which provided that no law should contain any provision that was discriminatory either in itself or in its effects, that no one should be treated in a discriminatory fashion by anyone acting in accordance with a written law or in the performance of public duties or services, and that no one should be subject to discrimination with regard to access to public places. However, the Government did not specify whether discrimination was

also prohibited with regard to access to non-public places, such as private clubs. Article 15 of the Constitution also provided for derogations under which laws could be enacted notwithstanding the general protection against discrimination guaranteed by that same article, for example for the collection of taxes and allocation of State revenues, or by any provincial administration for local purposes. The Committee had then pointed out to the Government that, if members of a particular racial group could be made subject to taxation by virtue of their membership of that group, it constituted an act of discrimination. In addition, the Committee had wondered whether article 15 of the Constitution in fact implemented article 4 of the Convention, and had asked for further details on the matter.

74. The initial report of the Government of the Solomon Islands contained data on the demographic composition of the population (1976 Census), but it would have been interesting to have information on the religious and cultural characteristics of each ethnic group, its standard of living and socio-economic and educational levels, and, in particular, on employment and infant mortality rates, so that comparisons could be made between the different groups. According to information later than that of the 1976 Census, 60 per cent of the population was under 20 years of age, and only 50 to 60 per cent of the people could read and write. Education was not compulsory, and most schools were fee-paying. In 1986, there had been 47,949 pupils and 1,788 teachers in 461 primary schools and 5,553 pupils and 276 teachers in secondary schools. The official language was English (and what was termed "pidgin English"), but 37 other languages and dialects existed. There was also a great variety of religious beliefs. According to the 1976 Census, about 34 per cent of the population belonged to the Church of Melanesia (Anglican Church), 19 per cent to the Roman Catholic Church, 17 per cent to the South Sea Evangelical Church, 11 per cent to the United Church and 10 per cent to the Seventh-Day Adventist Church.

75. At the time of the submission of the report, no complaint of racial discrimination had been lodged with the Supreme Court, but it was not known if there had been any subsequently. The Committee did not know either whether any ethnic groups had been victims of acts of discrimination on religious grounds or in educational matters. It would also have been helpful to have information on the employment situation. According to 1985 data, the active wage-earning population had then been 23,300 persons, 34 per cent of whom worked in the government service, 33.2 per cent in agriculture and 29.5 per cent in the services sector. He pointed out that the larger islands of the archipelago were inhabited by Melanesians, whereas the small coral islands, which were difficult to cultivate, were inhabited by Polynesians: it might be that the latter were economically disadvantaged as a result.

76. Communications in the archipelago were inadequate, which made detection of any cases of racial or religious discrimination more difficult: the Committee had been unable to establish whether any discriminatory colonial legislation still existed. In 1988, a commission had been set up to revise the Constitution with a view to enabling the archipelago to become a federal republic within the Commonwealth, but the Committee did not know whether any further amendments were contemplated.

77. He suggested that the Committee should remind the Government of the Solomon Islands of its reporting obligations, and offer it the technical assistance needed for the preparation of its next report.

78. Mr. FERRERO COSTA said he endorsed that proposal. The Committee should send a letter to the Government informing it that the situation of the Solomon Islands had been considered, reminding it of its obligations under article 9, paragraph 1, of the Convention and proposing that it avail itself of the technical assistance services of the Centre for Human Rights in preparing its reports. The relevant summary records containing the comments and conclusions of the Committee would be attached. The letter might then serve as a basis for a standard letter to be sent to all States whose reports were overdue.

79. The CHAIRMAN drew the attention of members to the letter sent by the Chairman of the Committee on 23 August 1991 to the ministers for foreign affairs of a number of States parties whose reports were overdue, and whose situation had been considered on the basis of the most recent reports available. The text of that letter was to be found in annex VII to the Committee's report on its thirty-ninth and fortieth sessions (A/46/18). She suggested that the text of that letter should be used again for States parties in the same position whose situation had been considered at the current session.

80. It was so decided.

Third, fourth and fifth periodic reports of Botswana (CERD/C/105/Add.1)

81. Mr. BANTON, country rapporteur, said he had circulated a note giving demographic data on Botswana and outlining the situation with regard to the country's earlier reports.

82. With regard to article 2, paragraph 1 (e), of the Convention, it might be of interest to know whether there were any integrationist multiracial organizations or non-governmental human rights organizations promoting racial equality in the country. The Committee should also see whether legislation was in keeping with article 5 of the Convention, and ask for clarification of the enigmatic allusion to article 5, paragraph (d) (ii), of the Convention appearing in paragraph 28 of the report (CERD/C/105/Add.1). With regard to article 6, it was stated in paragraph 31 of that report that the High Court was competent to redress complaints. However, it was generally expensive to appeal to an instance of that kind which, consequently, might not constitute an effective remedy. Lastly, the next report might usefully contain some estimate, if only a subjective one, of the number of acts of discrimination of a racial character in various social sectors, as well as an indication of how often victims of such acts had obtained redress.

83. The CHAIRMAN, speaking as a member of the Committee, said she had a number of questions to ask. First of all, in connection with the Central Kalahari Game Reserve established in 1963, she would like to know whether there were any projects in Botswana catering specifically to the needs of the San people, formerly known as Bushmen, who roamed in small groups in

inhospitable regions and who, according to the most recent estimates, appeared to number no more than 800 people. She wondered how many accommodation centres had been set up for them, how many agriculture schemes had been launched and how the Remote Area Development Programme was progressing.

84. With respect to article 5 of the Convention, it would appear that cases of ill-treatment of detainees continued to occur; three policemen had been given prison sentences in 1990 for torturing a suspect: she would like to know whether any steps had been taken to sensitize the police to such problems. Botswana had a long tradition of peaceful assemblies in the villages, known as the Kgotla: she wondered whether, in those assemblies, the old patriarchal system, which discouraged women from taking part in political life, was still in force. At the Kgotla, anyone was free to question the chiefs and voice his opinions, and she would like to know how that system was incorporated into the current political set-up, and whether it was used by the democratic parties.

85. Still with regard to article 5, she would like to know how many refugees had settled in the Dukwe camps, which countries they came from, and what education, health and employment facilities they had been offered. Botswana had made considerable economic progress since 1989; its GNP had grown by nearly 9 per cent annually and, since its independence in 1966, its per capita GNP had increased from \$69 to almost \$2,000 in 1989. Those figures were statistically illusory, however, since some 75 per cent of the inhabitants of Botswana lived in rural areas and survived by subsistence farming and animal husbandry. She inquired what was being done to reduce the resulting disparities, in view of the fact that the major part of the country's capital went to South Africa. In addition, there had been complaints that the Government had refused to allow teaching in minority languages, which would appear incompatible with article 5, paragraph (e) (v), of the Convention. Lastly, the law severely restricted the right to strike; once a strike had been declared illegal by the Government, the employer had the right to dismiss the strikers, who could also be jailed. There would seem to be a clear need to reform the labour laws, and she wondered whether any initiatives had been taken in that connection.

86. With regard to article 6 of the Convention, it would appear that there was a system of bail, and that a detainee had the right to hire an attorney of his choice, but no legal aid was provided for the poor, who were often tried without the benefit of counsel. She wondered whether there were any plans to remedy that situation. The customary courts, open only to members of the tribe, usually handled property or matrimonial questions. It was the tribal chief who presided over the court, and parties were not assisted by counsel. She would like to know whether, if land and property disputes were not settled to the satisfaction of both parties, they were then referred to the High Court and what happened in the case of inter-ethnic marriages.

87. Lastly, she inquired whether the Botswana Association for Human Rights had yet been officially recognized and whether the Government had taken any steps to make education compulsory for a period of nine years, in accordance with its stated intention.

Third, fourth and fifth periodic reports of the Lao People's Democratic Republic (CERD/C/105/Add.4)

88. Mr. de GOUTTES, country rapporteur, recalled that the Lao People's Democratic Republic had acceded to the Convention in 1974 but had not made the declaration provided for under article 14. Subsequently, it had submitted its initial report and second report in 1978, and its third, fourth and fifth reports in 1984. Since that date, Laos had submitted no further reports despite being sent numerous reminders. The Committee should seek to establish the reasons for that failure to report, on the basis of earlier documents in its possession or other available information, and decide what questions it would like to ask the Lao Government.

89. The absence of a Lao delegation was unfortunate. It was true that the country had no Permanent Representative in Geneva and that, at the time its last report had been submitted, the Government had emphasized the difficulties encountered by the least developed countries in fulfilling their obligations, notably due to lack of competent staff. The Committee could accept that the country's very difficult situation, the aftermath of the war it had experienced, its internal problems and the various changes currently taking place might explain, but not justify, the Government's delay in compiling its reports. In that connection, it could be offered technical assistance by the United Nations human rights advisory services.

90. When considering the last report of Laos, the Committee had welcomed the efforts made by that country to submit its periodic report which, it had noted, complied with the Committee's guidelines as to form, but confined itself to generalities in respect of substance. In particular, members had regretted the lack of adequate data on the demographic composition of the population and on the number of persons belonging to each of the 68 ethnic groups, the dogmatic assertion that racial discrimination was unknown in Laos, the absence at the time of any national constitution guaranteeing fundamental rights and freedoms, the fact that the Convention had not been incorporated into domestic law and the lack of any specific legal provisions to punish acts of racism; they had also noted that there were still some doubts regarding the effective remedies available to victims in the People's Courts and the steps taken by the Government to ensure the social, economic and cultural development of the ethnic minorities. The Committee had also wondered how the declared aim of building up a socialist and national culture in Laos could be reconciled with the recognized right of each ethnic group to preserve its own culture. Questions had also been asked about the existence of "re-education camps" and the regime governing such camps, as well as about the situation of aliens resident in Laos.

91. In the absence of a new report, the Committee should first ask the Lao Government to send it, within as short a time as possible, an updated periodic report which would conform to the guidelines in terms of both form and content. That document should contain recent information on the country's social, economic and demographic indicators, since all the Committee knew was that the population amounted to 4.2 million inhabitants and that the rate of inflation, which had reached 70 per cent in 1989, had fallen to 10 per cent in 1991 and, probably, to 7 per cent in 1992. Nothing was known about the

composition of the population by ethnic groups, the rate of population growth, the literacy rate, etc., although such data should have been available to the Government following the first census carried out less than 10 years previously.

92. The report should then outline the main developments in the Lao political regime and describe the efforts being made to democratize the country. It was known that, from 1986 onwards, the Government had taken the path of political and economic reform; however, those reforms would appear to have been carried out rather unevenly, rapidly as far as the transition to a market economy was concerned but more hesitantly in the political sphere, where the real power was still in the hands of the single - Communist - party. Nevertheless, the reform policy had been a genuine one, and there had been a number of very encouraging developments: the holding of regional and general elections in 1969 (in which independent candidates had been allowed to stand), the release of a number of prominent figures of the former regime, the establishment of a State subject to the rule of law following the adoption of a number of basic acts in respect of criminal and civil law and the judiciary and, lastly, the adoption of a new Constitution in 1991 which had abolished direct one-party control, guaranteed fundamental freedoms, recognized private property and strengthened the role of the National Assembly and the Government. The next periodic report should confirm and add to that information, and also explain the legal content of the new 1991 Constitution and how far it affected the applicability of the Convention in domestic law, indicating whether the latter could be applied directly by the courts. The Committee also wished to know whether there were any bodies responsible for developing policies to benefit the ethnic groups.

93. As far as part II of the due report was concerned, Laos should give an account, in connection with article 2 of the Convention, of any measures adopted to guarantee the development of ethnic minorities; according to some reports, the largest of those minorities, the Hmong (Meo) community, consisting of some 200,000 persons, was regarded with great suspicion by the authorities because it was still largely hostile to the Communist regime; it would appear that, after having fought on the side of the Americans, the Hmongs had joined forces with various activist elements which had been pursuing an anti-government campaign since 1975. Those tribes also complained that the army was gradually driving them out of the border zones in which they had taken refuge, on the grounds that they constituted an obstacle to the improvement of relations between Laos and Thailand: it was essential to have information from the Lao Government on that point.

94. In connection with articles 4 and 6 of the Convention, the report should contain a complete account of the texts punishing all acts of racism and should give details of the remedies available to victims in the courts, mentioning whether those remedies were still within the competence of the People's Courts and stating how many complaints and sentences had been recorded.

95. With regard to article 5 of the Convention, the Committee would need data on the number of persons still interned in "re-education camps", notably in the north-eastern provinces, notwithstanding the large number that had been freed in recent years. Information would also be needed on the situation

of refugees who had left Laos for Thailand; at a meeting in Luang Prabang in June 1991, representatives of Laos, Thailand and the Office of the United Nations High Commissioner for Refugees had reportedly agreed on a plan to repatriate to Laos, or to settle in a third country, the 62,000 Lao refugees living in camps in Thailand; the repatriation operation was to be completed towards the end of 1994. When the refugees, notably the Hmongs, had expressed fears of possible reprisals on their return, the Lao delegation had apparently given assurances that the safety and dignity of the returnees would be guaranteed; it would be helpful to have information on the implementation of that repatriation plan. It would also be useful to know what restrictions were still in force with regard to freedom of movement within Laos, and freedom to leave the country or to return to it. Similarly, according to some reports, the political authorities would still appear to be keeping Buddhist and Catholic priests under strict surveillance and the Committee would like to know what the true situation was.

96. Lastly, with regard to the implementation of article 7 of the Convention, he inquired whether measures had been adopted in Laos to publish the Convention and make it more widely known, and to disseminate information on the campaign against racial prejudice and the defence of human rights, and whether the Government authorized and encouraged action by non-governmental organizations to uphold human rights and combat racial discrimination.

97. In conclusion, he believed that the Committee, while deploring the accumulated delays in the submission of reports, and the absence of any delegation from the country concerned at its current session, should take into account the difficult situation of Laos and its efforts to achieve a more liberal and open society, and should encourage it in the new path it had taken. It could also invite the country to avail itself of the United Nations human rights advisory services for assistance in preparing its due report.

98. Mr. WOLFRUM, referring to the new 1991 Constitution of Laos, said he would like the country's next report to describe how the Constitution was being put into effect, since its implementation appeared to pose certain problems. He, too, wished to draw attention to the situation of the Hmong minority, who for the reasons outlined by Mr. de Gouttes, would appear to be victims of discrimination.

99. The CHAIRMAN said that, if she heard no objections, she would take it that the Committee wished to adopt the recommendations that had just been formulated.

100. It was so decided.

Fourth and fifth periodic reports of Burkina Faso (CERD/C/105/Add.5)

101. Mr. AHMADU, country rapporteur, said that Burkina Faso had an area of 275,000 square kilometres, and had had in 1985 some 8 million inhabitants, nearly 50 per cent of whom were Mossi and 10 per cent Fulani. A profoundly democratic spirit had characterized Burkina Faso through a variety of political regimes; the people talked politics openly and knew how to voice their demands, while trade unions were strong.

102. Burkina Faso was engaged in a struggle for survival, and was making great efforts to build up its institutions. President Sankara, the young, dynamic, idealist and revolutionary head of State, had been assassinated in a coup d'état organized by his chief collaborator who had then, faced with a hostile population, been obliged to commit himself to restoring civilian rule. Taking off his uniform, he had stood as candidate for the presidency, and had won the election. That succession of internal difficulties explained why the Burkina Faso authorities had submitted no periodic report since 1985, although until then they had regularly fulfilled their obligations in that regard. The Committee should draw the Government's attention to the fact that it could obtain technical assistance from the United Nations in preparing its reports.

103. In 1985, the Government had replied to many of the questions put to it earlier; however, some appeared to remain unanswered, notably whether various laws were still in force, such as the ordinance of 1962 prohibiting all body marks serving to identify an individual's tribe or ethnic group. In any case, that law was not very significant, since all over Africa such practices were tending to disappear without any need for legislation. Since 1985, President Sankara had repealed a number of laws whose content was of direct concern to the Committee, and it would be useful to know what the current situation was following three successive Governments and three different constitutions. It would be also helpful to know whether there was any specific body to which victims of illegal administrative actions could appeal; President Sankara had set up a post of mediator, but it was not known whether it still existed. Lastly, the question as to whether there were any tensions between the various population groups had still not received an answer.

104. For the Committee to assess the extent to which Burkina Faso was complying with the obligations assumed under the Convention, it needed up-to-date information on the current constitutional position. It had been stated in earlier reports that legislative provisions had been adopted to meet certain of the requirements of articles 2 to 7 of the Convention, but it was not clear whether those measures were in force and were being effectively implemented; Burkina Faso should supply information on the matter, and indicate how those provisions were being implemented. The Committee would also need to know whether political conflicts sometimes coincided with ethnic antagonisms.

105. The Committee should also ask to what extent the remedies listed in paragraphs 66 to 69 of the report (CERD/C/105/Add.5) were being effectively utilized, whether steps had been taken to set up health services and other social services with a view to reducing disparities, and whether certain regions inhabited by particular ethnic groups were disadvantaged in that regard.

106. Lastly, the Committee should ask for clarification of the policy, referred in paragraph 17 of the report, of combining together the different nationalities in Burkina Faso. It would be interesting to know how far that policy had been successful. The Ujamaa policy attempted in the United Republic of Tanzania had been a failure, and it would be particularly useful to know whether any similar steps had been taken in Burkina Faso,

and what obstacles had been encountered. President Sankara had defined some priorities for promoting national unity, which his successor might have incorporated into the Constitution.

107. The Committee realized that in a country faced by such serious economic difficulties as those being experienced by Burkina Faso, it was difficult for the authorities to provide detailed answers to all the questions raised. It should indicate, therefore, that it would prefer to receive qualitative or even subjective replies rather than no replies at all.

108. He proposed that a further reminder be sent to the Government of Burkina Faso, together with the questions that had just been asked.

109. It was so decided.

ORGANIZATION OF WORK

110. Mr. de GOUTTES said he would like to return to the question of the Committee's contacts with the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. It had been agreed, at the beginning of the session, that Mr. Valencia Rodríguez would approach the Chairman of the Sub-Commission, as a result of which it had been decided that he would make a brief statement to the Sub-Commission referring to the Committee's difficulties and to its future, mentioning the letter the Committee had just sent to the Chairman of the Commission on Human Rights. It was urgently necessary to decide who was to replace Mr. Valencia Rodríguez at the meeting of the Sub-Commission. Mr. Ferrero Costa would, perhaps, agree to take on that responsibility.

111. In addition, the Committee would need to designate one of its members to attend the extraordinary session of the Commission on Human Rights which was to be held in a few days' time.

112. The CHAIRMAN said the Committee would take a decision on those questions at its next meeting.

The meeting rose at 6.10 p.m.